

## Younger, Leann

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**From:** Gantt, Karen  
**Sent:** Thursday, July 01, 2004 8:40 PM  
**To:** Herron, Barry; Byrd, Dave A.; Younger, Leann; Martin, Susan (DES); Pottkotter, Kathleen  
**Subject:** RE: Chicago Exceptions requiring Approvals

**Sensitivity:** Confidential

Section 12.2.4 Most Favored Customer – I agree with Pat's comment that DESI should consider refusing the MFN. This is a business decision that Barry and Dave will need to approve, but I recommend citing Alt. 1 in the attached document.

Section 12.5 Remedies -- I recommend that we include the exception to liquidated damages. Barry & Dave, Diebold has a business policy against agreeing to liquidated damages, and if from a business perspective we do not want to include the exception, we will need to seek a waiver of the policy from Warren and others in Canton.

GC-18 Compliance with Laws – I recommend that we include the additional language offered by Pat in the attached document. Barry, I know you are familiar with this issue and I believe you would agree. Please let me know if you feel differently.

GC-25 Termination for Convenience and Suspension of Contract – Barry & Dave, I do not believe we should agree to any of the termination for convenience clause. The customer contracts with these are continually used against us (ex: Maryland, San Diego) and put us in a very poor position, particularly after implementation and before payment. I recommend we eliminate the entire provision. If for business purposes we do not wish to do so, we need to run this up the flag pole in Canton – I know that Greg Geswein has been very surprised and frustrated by termination for convenience provisions in other contracts and we would need his sign off for inclusion of this provision in a procurement of this size. I am happy to discuss further at your convenience.

GC-28 Confidentiality and Ownership of Documents – I agree with Pat's revisions in the attached document.

Sections 2 & 12.3.6 – These are very sensitive, and I have asked for our CA counsel to assist us. I expect a response by Tuesday.



Exceptions.doc (59 KB)

-----Original Message-----

**From:** Pottkotter, Kathleen  
**Sent:** Tuesday, June 29, 2004 11:45 AM  
**To:** Byrd, Dave A.; Loe, D. Greg; Gantt, Karen; Herron, Barry; Moreland, Steven  
**Cc:** Younger, Leann; Laninga, Stacy; Bowen, Elizabeth; Caylor, Donna; Martin, Susan (DES); Walsh, Timothy  
**Subject:** FW: Chicago Exceptions requiring Approvals  
**Sensitivity:** Confidential

<< File: Chicago 2004RFP-final.pdf >> Exceptions to review/approve/comment accordingly. << File: Chicago-Cook exceptions..pt.doc >>

**Also, there is no reference to "Required Escrow" but, DESI has \$3000 - \$3700 worth of fees annually Per Client/Preferred Beneficiary which should be considered to be added to the cost model and in the extended maintenance fees.**

Karen,